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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/643,189
Filing Date: August 18, 2003
Appellant(s): LIND ET AL.

Russell D. Culbertson
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed March 27, 2007 appealing from the Office action mailed September 25, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2004/0166940	Rothschild	2-2003
5,923,252	Sizer et al.	7-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

(a) Claims 32, 33, 39, 40, and 42 are rejected under 35 U.S.C. 102(e) as being anticipated by Rothschild (2004/0166940).

Referring to claims 32, 39, and 42, Rothschild teaches a gaming system and method (having player detection steps thereto) comprising: a gaming machine (14) including a game presentation arrangement capable of producing a respective game presentation for any one of a number of different games, the gaming machine capable of being located in a hotel room (paragraph 22); a player data collection arrangement for detecting that a person has been assigned to the hotel room in which the gaming machine is located (utilizing hotel/casino database 40c)(paragraph 32) and for storing player preference information for the person assigned to the hotel room (accessing hotel using player tracking card, paragraphs 31-33); a system configuration arrangement for producing a system configuration command based on the player preference information for the person assigned to the hotel room (paragraphs 22, 24,

30); and a game modification controller in communication with the system configuration arrangement and with the gaming machine, the game modification controller for responding to the system configuration command by communicating presentation switching instructions to the gaming machine, the presentation switching instructions causing the gaming machine to produce a game presentation specified by the presentation switching instructions (setting player preference to gaming machine utilizing player game preference stored in the player tracking system, paragraph 31).

Referring to claims 33 and 40, wherein the detecting arrangement detects that the person has been assigned to the hotel room by receiving room check-in information, this limitation is inherent from Rothschild's teaching of utilizing casino/hotel database to detect player (paragraph 32). (Final Office Action, mailed on September 29, 2006 (pages 2-3, Claim Rejections - 35 USC § 102)).

(b) Claims 25-31, 34-38, and 41, are rejected under 35 U.S.C. 103(a) as being unpatentable over Rothschild (2004/0166940) in view of Sizer et al. (5,923,252).

Referring to claims 25, 31, 34, and 38, and 41, Rothschild teaches gaming system and method comprising: a gaming machine (12 or 14) including a game presentation arrangement, capable of producing a respective game presentation for any one of a number of different games; a player data collection arrangement for storing player preference information for the player (40f, 40c)(Fig.1); a system configuration arrangement for producing a system configuration command specifying a game

presentation likely to be favored by the player based on the player preference information for the detected player (paragraph 31); and a game modification controller in communication with the system configuration arrangement and with the gaming machine, the game modification controller for receiving the system configuration command from the system configuration arrangement and for communicating presentation switching instructions to the gaming machine, the presentation switching instructions causing the gaming machine to switch from a first game presentation to the game presentation likely to be favored by the player (utilizing player reference, paragraph 31). Rothschild further teaches the limitation of the gaming machine (14) could be used in a hotel room (paragraph 22); and player detecting arrangement detects the player through a check-in procedure for the hotel room utilizing the casino/hotel data base (paragraph 32). Rothschild does not teach the limitations of player detecting arrangement separate from the gaming machine for detecting a player as the player traverses a gaming facility and approaches an area of the gaming facility in which the gaming machine is located; and switching game presentation prior to an arrival of the player at the gaming machine (claims 25, 34, and 41). Sizer et al., however, teaches marketing device and system comprising shopper detecting arrangement separate from the product to be marketed for detecting a shopper as the he/she traverses a detection area and approaches an area of the product marketing facility in which the product is located (abstract, 6:4-46); and product advertising presentation or messages are ensure to be coordinated upon an arrival of the player along the aisle (7:33-8:49; 15:16-35; 16:14-32). It would have been obvious to a person

of ordinary skill in the art at the time of the invention was made to provide the wireless detection system of Sizer et al. to the gaming network of Rothschild to instantly detect game player in the area to provide gaming advertisement to the player faster and more effective that would attract more game players to play game, thus bring forth profits to the casino.

Referring to claims 26 and 30 and 35, Rothschild teaches a player detecting arrangement includes a player location determining arrangement for determining the location of the player in a gaming facility in which the gaming machine is located (utilizing player tracking card); and wherein the player detecting arrangement detects the player by reading information associated with a player card which is usable by the player in the gaming facility in which the gaming machine is located (reading player tracking card at the gaming machine; the new game presentation includes an attract display tailored for the respective player (player preference)(paragraphs 30-34).

Referring to claims 27-29, 36, and 37, Sizer et al. teaches the player carries an identifying device and wherein the player location determining arrangement includes a reading device for remotely reading identifying information from the identifying device; wherein the player location determining arrangement includes a receiver device for remotely receiving identifying information transmitted from the identifying device; and wherein the player carries a transponder transmitting a player identifying signal, and wherein the player location determining arrangement includes a receiving arrangement for determining the location of the player based upon the player identifying signal; detecting the player includes receiving a transponder signal transmitted from a

responder carried by the player (10:6-11:64, 16:14-32). (Final Office Action, mailed on September 29, 2006 (pages 3-6, Claim Rejections - 35 USC § 103)).

(10) Response to Argument

I. **Response to Appellant's arguments on rejected claims 32, 33, 39, 40, and 42 under 35 U.S.C. 102 (e) as being anticipated by Rothschild (2004/0166940)**

(Section VII. A, page 8, line 2 to page 14, line 6 of Appellant's Brief).

The Appellant's traversals of the rejections of the claims as being anticipated by Rothschild are deemed not to be persuasive.

i. **Response to Appellant's argument regarding claim 32** (page 8, line 6 to page 12, line 9 of Appellant's Brief).

The appellant argued that Rothschild does not teach or suggest elements (b), (c), and (d) is deemed not to be persuasive.

Rothschild teaches a gaming system comprising: a gaming machine (14) including a game presentation arrangement capable of producing a respective game presentation for any one of a number of different games, the gaming machine capable of being located in a hotel room:

> *The computing devices 14 may, for example, include a personal computer (portable or desktop), Internet appliance, personal digital assistant, wireless telephone, and pager.* ***Depending upon the device, the computing devices 14 may be used at home, in a hotel room, or while traveling. The computing devices 14 are remote from any land-based casino, although they may be used in a hotel room, by the pool, in the fitness room, or in some other facility of a hotel containing a casino.*** *Each computing device 14 preferably includes a central processing unit (CPU) and various peripherals linked to the CPU. If the computing device 14 is a personal computer, for example, the peripherals may include a video display, a keyboard, a mouse, and*

a touch screen overlying the video display. The CPU executes instructions from its read only memory (ROM) and, during such execution, the CPU temporarily stores and accesses information from a random access memory (RAM). If a computing device 14 is to access the above-noted intranet via the Internet, the computing device 14 must initially access the Internet through an Internet Service Provider (ISP) 20 (also known as Internet Access Provider (IAP)) and communicate with the Internet using standard Internet protocols such as TCP/IP. (Rothschild, paragraph 22).

Referring to element (b) Rothschild teaches a player data collection arrangement for detecting that a person has been assigned to the hotel room in which the gaming machine is located (utilizing hotel/casino database 40c)(paragraph 32) and for storing player preference information for the person assigned to the hotel room (accessing hotel using player tracking card, paragraphs 31-33):

***When the player enrolls in the casino's player tracking system, the player may provide data associated with the background variables and game preference variables**. The background variables may, for example, include name, home address, date of birth (or age), social security number, telephone number(s), credit card information,... **The game preference variables** may, for example, include preferred game titles, preferred game categories (e.g., slots, poker, keno, bingo, blackjack, etc.), preferred game themes, preferred default game configuration (e.g., language, sound options, denomination, speed of play, speed of reel spins for a slot game, number of pay lines played for a slot game, number of credits played per pay line per reel spin for a slot game, etc.), and preferred distribution of awards (e.g., payout structure, payout options, form of complimentaries, denomination, etc.). It should be understood that the above lists of variables are by no means exhaustive and that other variables are possible. (Rothschild, paragraph 31.)*

Some or all of the usage variables in the casino/hotel database 40c, the progressive jackpot database 40d, and the slot accounting database 40e may also be used in the player account database 40f to track the activity of individual players (when such players identify themselves with their personal identification cards while using the casino/hotel facilities, the gaming machines 12, and the computing devices 14). With respect to the gaming machines 12, for example, each gaming machine 12 is fitted with a card reader into which the player inserts his or her identification card prior to playing the associated machine 12. The

card reader reads the personal identification number off the card. The personal identification number is associated with a unique record stored in the player account database 40f. Instead of or in addition to player identification cards, the identities of players may be established by reading a biometric attribute (e.g. voice, iris, retina, fingerprint, handwriting, and face) of a player that is compared to a reference attribute stored in the player account database 40f. With respect to the computing devices 14, a player's login information may be associated with a unique record stored in the player account database 40f. If the player at the computing device 14 also has an identification card for use in a casino, the login information and the card may be tied to separate records or to separate sections of a common record. Whether a player is using a gaming machine 12 or a computing device 14 to play games, the machine or device transmits the usage data for the player's subsequent gaming activity to the slot accounting database 40e and transmits some or all of that data to the associated unique record stored in the player account database 40f. Thus, the player identification card aids the casino in knowing more about who its patrons are and what they like. (Rothschild, paragraph 32).

The player marketing information database 40g indicates, for example, the identities of players, which wagering games are being played, where the wagering games are being played, when the wagering games are being played, and how much or how long the wagering games are being played. This marketing information can, in turn, be used to assess playing habits, offer complimentaries, and engage in other types of target marketing. In addition to the various databases 40a-g identified above, the database manager 38 may manage other databases such as a tourism database. (Rothschild, paragraph 33).

Referring to element (c) Rothschild teaches a system configuration arrangement for producing a system configuration command based on the player preference information for the person assigned to the hotel room (paragraphs 22, 24, 30):

The computing devices 14 may, for example, include a personal computer (portable or desktop), Internet appliance, personal digital assistant, wireless telephone, and pager. ***Depending upon the device, the computing devices 14 may be used at home, in a hotel room, or while traveling. The computing devices 14 are remote from any land-based casino, although they may be used in a hotel room, by the pool, in the fitness room, or in some other facility of a hotel containing a casino.*** *Each computing device 14 preferably includes a central processing unit (CPU) and various peripherals*

linked to the CPU. If the computing device 14 is a personal computer,... If a computing device 14 is to access the above-noted intranet via the Internet, the computing device 14 must initially access the Internet through an Internet Service Provider (ISP) 20 (also known as Internet Access Provider (IAP)) and communicate with the Internet using standard Internet protocols such as TCP/IP. (Rothschild, paragraph 22).

The registration procedure may require the player to open a record or "house" account at a registration facility of the casino. The player's account is stored in a database at the corporate headquarters 30 and/or the casino web server 10b. During the registration procedure, the casino may require the player to submit various types of player tracking information to be stored in the player's account, including name, date of birth, social security number, address, telephone number(s), and other requisite information. As discussed below, the player may also provide other types of optional player tracking information. The casino preferably requires the player to verify his or her identity with one or more commonly accepted forms of identification, such as a driver's license, passport, social security card, etc. The login information for logging into the gaming web site may be selected by the casino or the player and then stored in the player's account. The casino provides the registered player with the hardware or software security key to install on the player's computing device 14 to enable the computing device to access the intranet. The casino may limit the registered player to a single security key for installation on a single computing device 14 or, if requested by the player, may provide the player with multiple security keys for installation on multiple computing devices 14. (Rothschild, paragraph 24).

When a player enrolls in a casino's player tracking system, often called a "slot club" or a "rewards program," the casino issues a player identification card that has encoded thereon a personal identification number that uniquely identifies the player. The identification card may, for example, be a magnetic card or a smart (chip) card. The personal identification number is associated with a unique record stored in the player account database 40f. The player account database 40f includes multiple records or "house accounts" each having data associated with such player tracking variables as background variables, game preference variables, and some or all of the usage variables included in the casino/hotel database 40c, the progressive jackpot database 40d, and the slot accounting database 40e. (Rothschild, paragraph 30).

When the player enrolls in the casino's player tracking system, the player may provide data associated with the background variables and game preference variables. The background variables may, for example, include name, home address, date of birth (or age), social security number, telephone number(s), credit card information,... The game preference variables may, for example, include preferred game titles, preferred game categories (e.g., slots, poker, keno,

bingo, blackjack, etc.), preferred game themes, preferred default game configuration (e.g., language, sound options, denomination, speed of play, speed of reel spins for a slot game, number of pay lines played for a slot game, number of credits played per pay line per reel spin for a slot game, etc.), and preferred distribution of awards (e.g., payout structure, payout options, form of complimentaries, denomination, etc.). It should be understood that the above lists of variables are by no means exhaustive and that other variables are possible. (Rothschild, paragraph 31).

Since the system of Rothschild allows a player to enroll in a tracking system

Referring to element (d) Rothschild teaches a game modification controller in communication with the system configuration arrangement and with the gaming machine, the game modification controller for responding to the system configuration command by communicating presentation switching instructions to the gaming machine, the presentation switching instructions causing the gaming machine to produce a game presentation specified by the presentation switching instructions (setting player preference to gaming machine utilizing player game preference stored in the player tracking system, paragraph 31):

*When the player enrolls in the casino's player tracking system, the player may provide data associated with the background variables and game preference variables. The background variables may, for example, include name, home address, date of birth (or age), social security number, telephone number(s), credit card information,... **The game preference variables may, for example, include preferred game titles**, preferred game categories (e.g., slots, poker, keno, bingo, blackjack, etc.), preferred game themes, preferred default game configuration (e.g., language, sound options, denomination, speed of play, speed of reel spins for a slot game, number of pay lines played for a slot game, number of credits played per pay line per reel spin for a slot game, etc.), and preferred distribution of awards (e.g., payout structure, payout options, form of complimentaries, denomination, etc.). It should be understood that the above lists of variables are by no means exhaustive and that other variables are possible. (Rothschild, paragraph 31).*

Note that, the gaming system of Rothschild allows the player to access the hotel using the tracking card, wherein the player's personal information entered in the casino/hotel database includes player's reference, e.g., preferred game title, preferred game categories, preferred default game configuration, etc.; further, the gaming device (14) could be used to play game in the hotel room using the tracking card, therefore, Rothschild clearly anticipate Appellant's claimed limitations.

ii. **Response to Appellant's argument regarding claim 39** (page 12, line 10 to page 13, line 15 of Appellant's Brief).

The appellant argued that Rothschild does not teach or suggest elements (a)-(e), is deemed not to be persuasive.

As being addressed above, the gaming system arrangement of Rothschild wherein data collection arrangement detecting that a person has been assigned to the hotel room in which the gaming machine is located (utilizing hotel/casino database 40c)(paragraph 32) and for storing player preference information for the person assigned to the hotel room (accessing hotel using player tracking card, paragraphs 31-33); and the system configuration arrangement for producing a system configuration command based on the player preference information for the person assigned to the hotel room (paragraphs 22, 24, 30) is capable of performing the method steps (a)-(e) of claim 39, including switching instructions to cause the gaming machine to produce a game presentation specified by the presentation switching instructions by setting player

preference to gaming machine utilizing player game preference stored in the player tracking system. Thus, the claimed method is anticipated by Rothschild.

Further, the responses made above to Section (I.i) with reference to Rothschild is also applied herein.

iii. **Response to Appellant's argument regarding claim 42** (page 13, line 16 to page 14, line 6 of Appellant's Brief).

The appellant argued that Rothschild does not teach or suggest elements (a) and (b) of claim 42, is deemed not to be persuasive.

Since the gaming system of Rothschild presented above is controlled by a gaming software which is capable of producing a respective game presentation for any one of a number of different games, wherein the gaming machine capable of being assigned in a hotel room, detecting a person has been assigned to the hotel room in which the gaming machine is located (utilizing hotel/casino database 40c)(paragraph 32), storing player preference information for the person assigned to the hotel room; and including switching instructions to cause the gaming machine to produce a game presentation specified by the presentation switching instructions by setting player preference to gaming machine utilizing player game preference stored in the player tracking system. Thus, the claimed method is anticipated by Rothschild.

Further, the responses made above to Section (I.i) with reference to Rothschild is also applied herein.

II. **Response to Appellant's arguments on rejected claims 25-31, 34-38, and 41 under 35 U.S.C. 103 (a) as being unpatentable over Rothschild (2004/0166940) in view of Sizer et al. (5,923,252)** (Section VII. B, page 14, line 8 to page 17, line 7 of Appellant's Brief).

The Appellant's traversals of the rejections of the claims as being unpatentable over Rothschild (2004/0166940) in view of Sizer et al. (5,923,252) are deemed not to be persuasive.

Referring to claims 25, 31, 34, and 38, and 41, Rothschild teaches gaming system and method comprising: a gaming machine (12 or 14) including a game presentation arrangement, capable of producing a respective game presentation for any one of a number of different games; a player data collection arrangement for storing player preference information for the player (40f, 40c)(Fig.1); a system configuration arrangement for producing a system configuration command specifying a game presentation likely to be favored by the player based on the player preference information for the detected player (paragraph 31); and a game modification controller in communication with the system configuration arrangement and with the gaming machine, the game modification controller for receiving the system configuration command from the system configuration arrangement and for communicating presentation switching instructions to the gaming machine, the presentation switching instructions causing the gaming machine to switch from a first game presentation to the game presentation likely to be favored by the player (utilizing player reference, paragraph 31). Rothschild further teaches the limitation of the gaming machine (14)

could be used in a hotel room (paragraph 22); and player detecting arrangement detects the player through a check-in procedure for the hotel room utilizing the casino/hotel data base (paragraph 32).

Note that, the responses made above to Section (I.i) with reference to Rothschild is also applied herein.

Further, Sizer et al. teaches a marketing device and system comprising shopper detecting arrangement separate from the product to be marketed for detecting a shopper as the he/she traverses a detection area and approaches an area of the product marketing facility in which the product is located (abstract, 6:4-46); and product advertising presentation or messages are ensure to be coordinated upon an arrival of the player along the aisle (7:33-8:49; 15:16-35; 16:14-32):

> *The device may also include means for assessing characteristics of a personal detected by the detection means. It can use knowledge of these characteristics to control message delivery. One characteristic which may be determined is the height of the person. Knowledge of height can indicate, for example, whether the person is an adult or a child and an appropriate message can be selected for delivery. The technology is also available to read "Smart" Cards or RF Cards carried by the person. Such cards may contain demographic and psychographic information on the person and this information could be used by the device to select messages for delivery. Although Smart Cards and RF Cards are not widely used at present, it is envisaged that in future they will become ubiquitous. (Sizer, column 6, lines 4-17).*
>
> *The technology is also presently available to detect and read RF ID Cards and Smart Cards being carried by the target person. The microcomputer can then use this information to dynamically vary message delivery and even message content. For example, the microcomputer may be programmed to control message delivery to refer to the target individual by name, if that information is available. For example, the device may be used at a trade show or exhibition and on entry to the exhibition each person may be presented with an RF card which contains information on the person. When the person approaches a device in accordance with the present invention, it is detected by the device and it is determined in accordance with the process of FIG. 3 that a message is*

> *to be delivered, in controlling message delivery, the microcomputer can take into account information obtained from the RF card, to personalize the message, or to address the message to a particular subject which it is apparent from the RF card information, the person is interested in. (Sizer, column 16, lines 14-32)*

Note that, the wireless detection system of Sizer detects personal data from the user's RF card to provide personalized advertisement message, this is equivalent to appellant's wireless detection of player's personal data, e.g., player game reference.

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to provide the wireless detection system of Sizer et al. to the gaming network of Rothschild to instantly detect game player in the area to provide gaming advertisement to the player faster and more effective that would attract more game players to play game, thus bring forth profits to the casino.

Thus, prima facie case of obviousness has been set forth with respect to claims 25-31, 34-38, and 41 in the Final Office action.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

BN

July 23, 2007

Binh-An D. Nguyen
Examiner
Art Unit 3714

Conferees:

Xuan Thai 

Eugene Kim